

matter has been incorporated into independent claims 1, 21, 37, 67, 95, and 108. Applicants reserve the right to file and prosecute in a continuation application subject matter of these original claims.

Claims 1, 9, 21, 37, 67, 95 and 108 have been amended to add the limitation of a loop containing section having legs that are arranged so that at least one of the legs is shorter than at least one other leg within the triangular cell. No new matter has been added. Support for this amendment is found throughout the specification and drawings, especially at pages 16-18 and Figure 5. Reconsideration of this application, as amended is respectfully requested.

2. §102 Rejection of Claims over Berry

Claims 1-7, 9-10, 20-25, 27-32, 37-46, 48-50, 67-70, 72-75, 77-84, 86-88, 90-91, 95-105, and 108-119 have been rejected under 35 U.S.C. §102 as being anticipated by Berry (US 6, 231,598). Applicants respectfully disagree with this rejection.

Berry does not teach or suggest the claimed invention. Berry does not teach or suggest any structure resembling triangular cells, nor does Berry describe structures resembling loop containing sections which cooperate to form a uniformly flexible stent structure. However, in order to expedite prosecution of the pending claims, applicants have amended the claims to address the Examiner's concerns. The instant claims recite that the loop containing sections have legs, wherein at least one of the legs of a given section is shorter than at least one other leg of that same section within the triangular cell. In contrast, Berry is silent as to this feature. In fact, Berry does not teach or suggest the use of variable length legs in a loop containing section within a triangular cell of a stent. Apparently, the Examiner agrees with applicants' position regarding this feature, because this feature was considered allowable by the Examiner in the pending Official Action. Thus, applicants believe these claims are in condition for allowance.

Applicants respectfully request favorable reconsideration of the claims in view of the instant amendment. Withdrawal of the §102 rejection is respectfully requested.

3. §103 Rejection of Claims in view of Berry and Official Notice

Claims 11, 71, 82, 85, 89, and 92 are rejected under 35 U.S.C. §103 as being unpatentable over Berry in view of Official Notice. It is the Examiner's opinion that the instant stent is an obvious matter of design choice in view of Berry which would be recognized as being within the level of ordinary skill in the art. Applicants respectfully disagree with this rejection.

As discussed above, applicants have amended the claims to include the subject matter of claims 8, 26, 34 and 47, which were deemed allowable but for their dependence on rejected claims. Thus, applicants assert that the rejection is moot in view of the instant claims.

However, for completeness' sake, applicants respectfully traverse the rejection and submit the claimed features are not an obvious matter of design choice. In the event that the rejection is maintained, the Examiner is respectfully requested to point to a particular reference that would support the "Official Notice" allegations. See MPEP 2144.03.

Berry does not teach or suggest the claimed invention. In fact, Berry teaches away from applicants' invention by disclosing that the length of each segments (A, B) are the same within each segment (A, B), and that any shortening of the interconnection segment (21) reduces the potential benefit of the curvilinear struts (22,23). (See, Berry at Col. 12, lines 53-67 and Fig. 24).

Applicants, on the other hand, claim at least one leg of a loop containing section is shorter than another leg of the same loop containing section within the triangular cell. Since Berry does not teach or suggest this concept, but in fact teaches away from it, reconsideration and withdrawal of the rejection is respectfully requested.

CONCLUSION

Based on the foregoing amendment and remarks, applicants respectfully submit that the claims as currently presented are patentable and in condition for allowance.

If any issues remain, or if the Examiner has any suggestions for expediting allowance of this application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Favorable consideration is respectfully requested.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment to Deposit Account No. 13-4500, Order No. 4303-4003US1. **A DUPLICATE OF THIS DOCUMENT IS ATTACHED.**

Respectfully submitted,

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